

REMARKS

In response to the Office Action mailed April 14, 2008, Applicants herein provisionally elect, with traverse, CHO for the cell line species election in claim 21 and immunoglobulins for the protein/polypeptide species election in claim 23. This Response is timely filed.

I. Species Restriction Election and Traversal

Claims 16-27 are currently pending and subject to restriction. Claims 16-20, 22 and 24-27 are deemed generic. The Examiner has restricted claims 21 and 23 to election of one species under PCT Rule 13.1. The species grouping for each claim are listed as follows:

1. Species for claim 21 (cell lines) are as follows: (a) CHO, (b) BHK, (c) hybridoma, and (d) myeloma.
2. Species for claim 23 (proteins and polypeptides) are as follows: (e) fusion proteins, (f) MUC1-IgG2a, (g) MUC2-GFP-C-term, (h) EPO, (i) interferons, (j) cytokines, (k) growth factors, (l) PA, (m) immunoglobulins, (n) fragments of immunoglobulins, and (o) other glycoproteins.

Applicants herein provisionally elect, with traverse, CHO for the cell line species election in claim 21 and immunoglobulins for the protein/polypeptide species election in claim 23.

II. Traversal of Species Restriction Election

Applicants respectfully traverse the restriction requirement for the following reasons. Upon an election of species, M.P.E.P. § 803.02 states that if no prior art is found that anticipates or renders obvious the elected species, search and examination of the claims will be extended to the extent necessary to determine patentability of the generic claim, as provided by 37 CFR 1.141. Thus, Applicants understand that if no art is found

which anticipates or renders obvious the elected species, search and examination will be expanded to the extent necessary to determine patentability of the claims as a whole, including all species compounds with Claims 21 and 23 inclusive.

Furthermore, Applicants respectfully disagree with the Examiner's reasoning that species restriction is required. Applicants respectfully urge that the species restriction requirement does not establish that searching all the species/inventions would constitute an undue burden to the Patent Office, and furthermore that the species restriction requirement does not establish that the species in Claims 21 and 23 inclusive do not relate to a single general inventive concept under PCT Rule 13.1. Applicants respectfully point out that Claims 21 and 23, and the species therein, are dependent upon a general method (and not compound) claim (Claim 16) and thus the species share in common that general method. As such, PCT Rule 13.2 is satisfied. Accordingly, Applicants submit that the species restriction requirement is improper and should be withdrawn or at least modified.

No further fee is required in connection the filing of this Amendment. If any additional fees are deemed necessary, authorization is given to charge the amount of any such fee to Deposit Account No. 08-2525.

Respectfully submitted,

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